

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37560

STATE OF IDAHO,)	2010 Unpublished Opinion No. 731
)	
Plaintiff-Respondent,)	Filed: December 6, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
VIRGIL D. CASE,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Shoshone County. Hon. Fred M. Gibler, District Judge.

Appeal, dismissed.

Molly J. Huskey, State Appellate Public Defender; Spencer J. Hahn, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Virgil D. Case was convicted of possession of a controlled substance. Idaho Code § 37-2732(c)(1). The district court sentenced Case to a unified term of five years, with a minimum period of confinement of one and one-half years. Case appeals asserting that the district court abused its discretion by imposing an excessive sentence. The State contends that Case waived his right to appeal as a term of the plea agreement. The record reflects that Case did, in fact, waive his right to appeal and Case makes no contention that his waiver was not voluntary, knowing or intelligently made. The record includes no evidence that Case did not understand the waiver of his appellate rights when he pleaded guilty. It is clear that Idaho law permits the waiver of the right to appeal as a term of a plea bargain. Idaho Criminal Rule 11(d)(1); *State v. Murphy*, 125 Idaho 456, 457, 872 P.2d 719, 720 (1994). Therefore, this appeal is dismissed.